

UNITED STATES
PATENT AND TRADEMARK OFFICE



Patent Public Advisory Committee Quarterly Meeting

Patent Trial and Appeal Board Update

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May 5, 2016

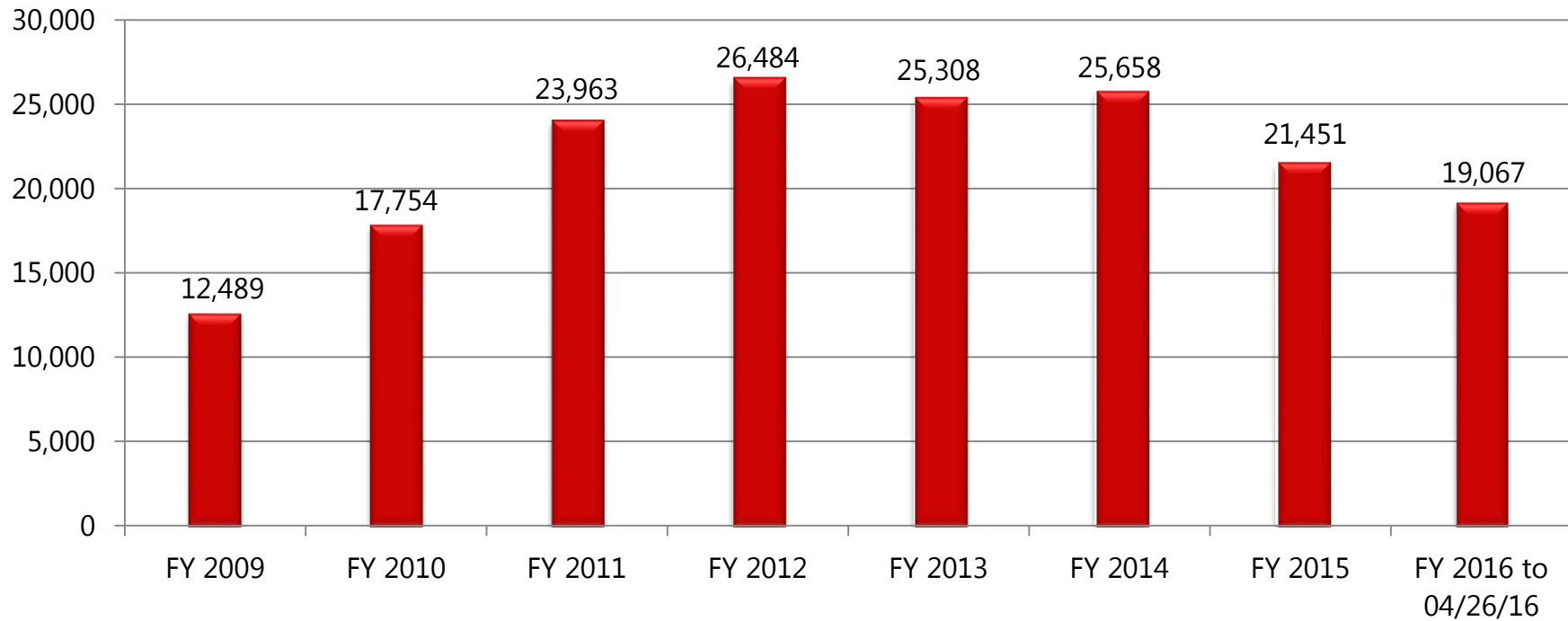
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Appeals Statistics

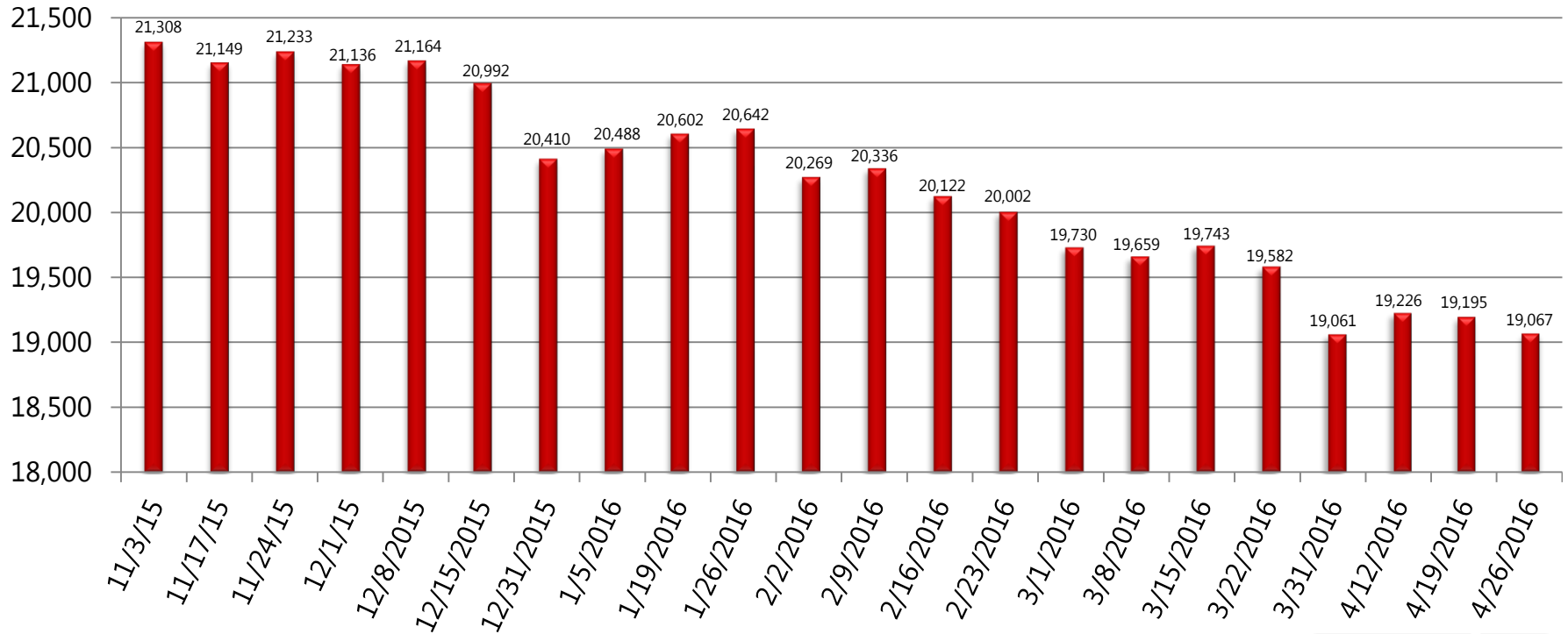
PTAB Inventory – Pending Ex Parte Appeals

(excluding appeals from reexamination proceedings)



PTAB Inventory – Pending Ex Parte Appeals

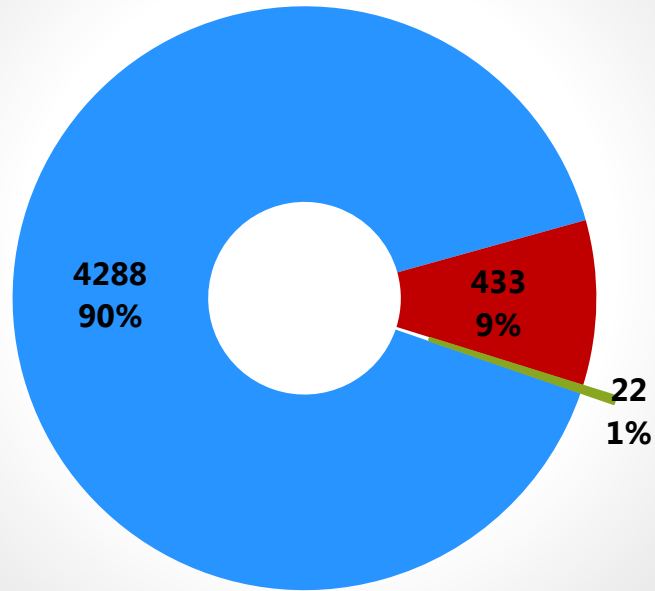
(excluding appeals from reexamination proceedings)



AIA Statistics

4743 Total AIA Petitions*

Cumulative from 09/16/2012



■ Total IPR Petitions ■ Total CBM Petitions ■ Total PGR Petitions

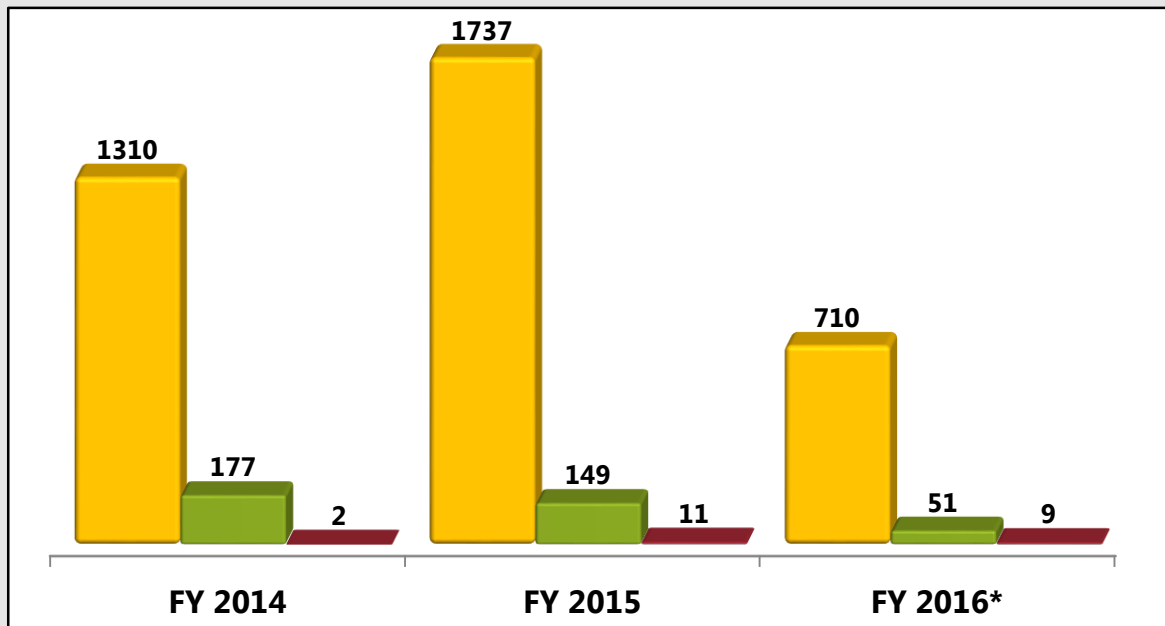
Narrative:

This pie chart shows the total number of cumulative AIA petitions filed to date broken out by trial type (i.e., IPR, CBM, and PGR).

***Data current as of: 3/31/2016**

Number of AIA Petitions Filed by Fiscal Year by Type

■ IPR ■ CBM ■ PGR

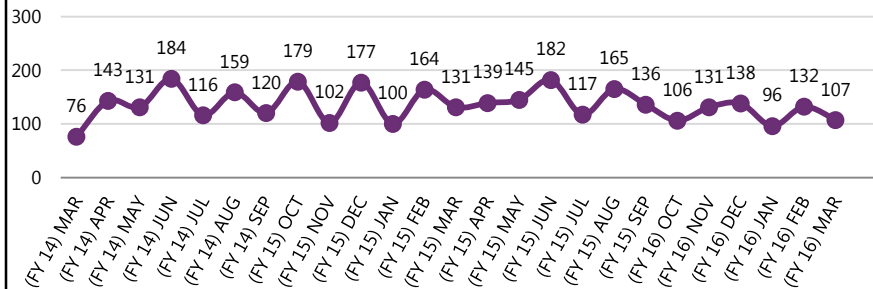


Narrative:

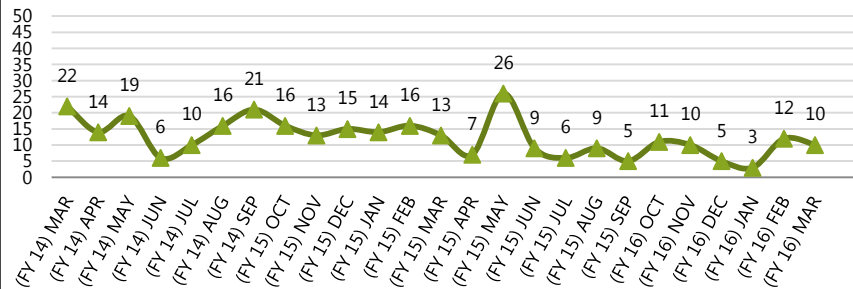
This bar graph depicts the number of AIA petitions filed each fiscal year, with each bar showing the filings for that fiscal year by trial type (i.e., IPR, CBM, and PGR).

***Data current as of: 3/31/2016**

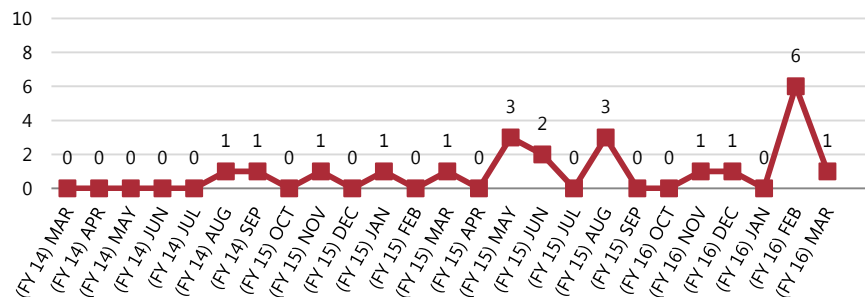
Number of IPR Petitions Filed by Month*



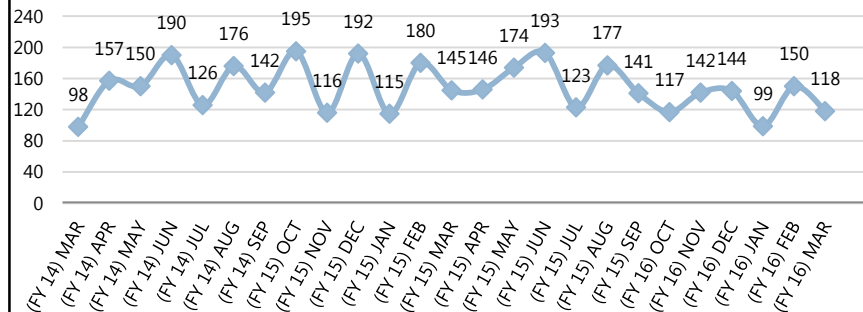
Number of CBM Petitions Filed by Month*



Number of PGR Petitions Filed by Month*



Number of TOTAL Petitions Filed by Month*

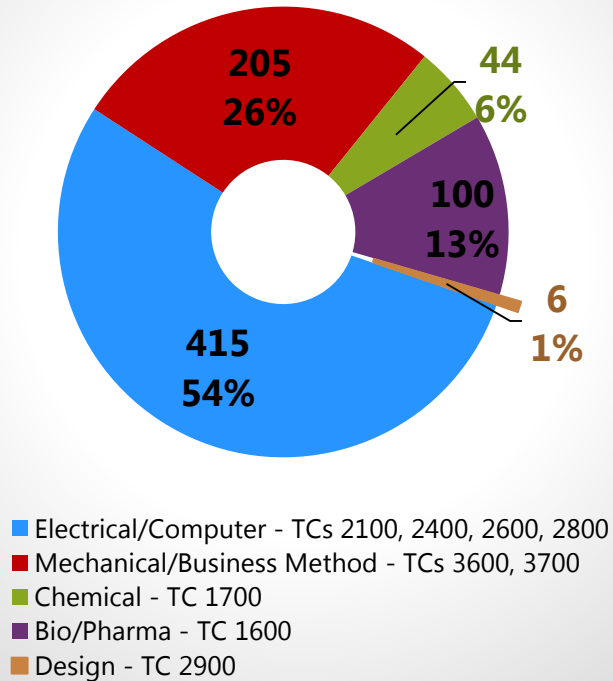


Narrative:

These line graphs display the number of IPR, CBM, and PGR petitions filed each month and the total number of all petitions filed each month from the effective date of the AIA trial provisions.

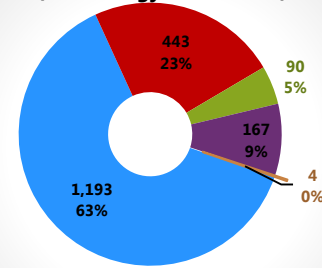
*Data current as of: 3/31/2016

770 Total AIA Petitions in FY 16* (Technology Breakdown)

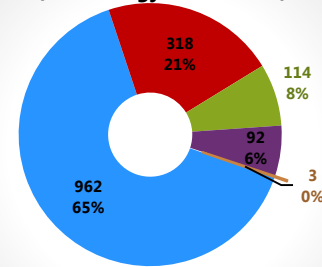


*Data current as of: 3/31/2016

1897 Total AIA Petitions in FY 15* (Technology Breakdown)



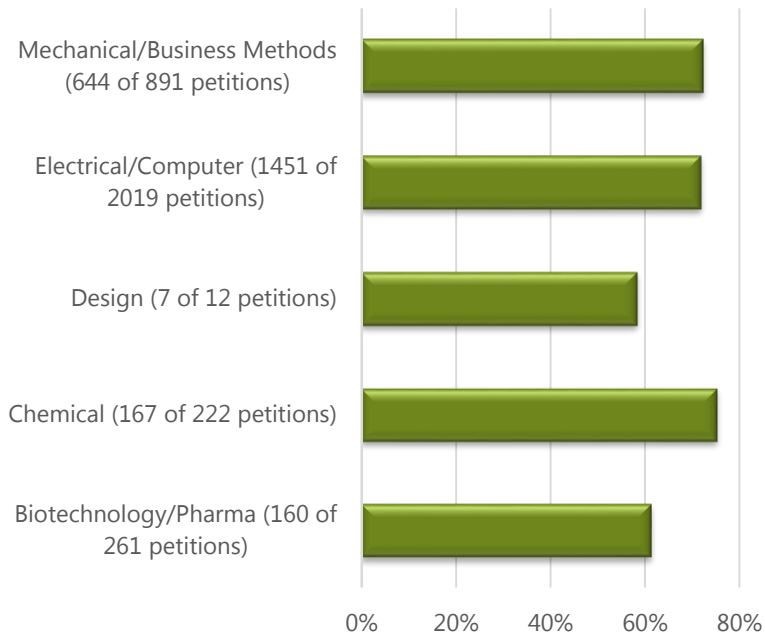
1489 Total AIA Petitions in FY 14* (Technology Breakdown)



Narrative:

This pie chart shows the total number of AIA petitions filed in the current fiscal year to date as well as the number and percentage of these petitions broken down by technology.

Percent of Petitions Instituted by Technology

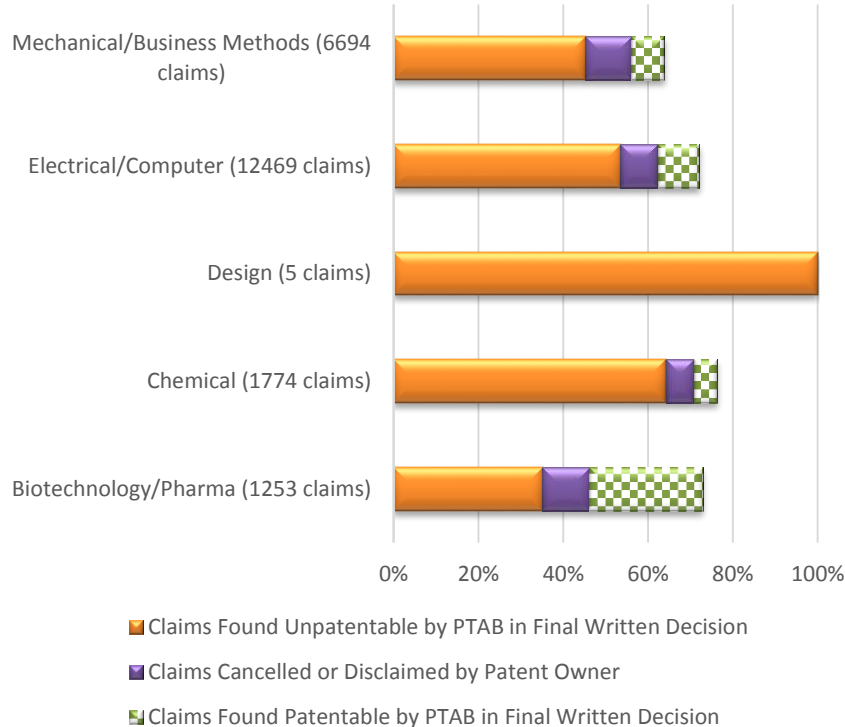


Narrative:

This chart shows the percentage of petitions instituted of all decisions on petition, by technology area.

***Data current as of: 3/31/2016**

Trial Outcomes for Instituted Claims by Technology



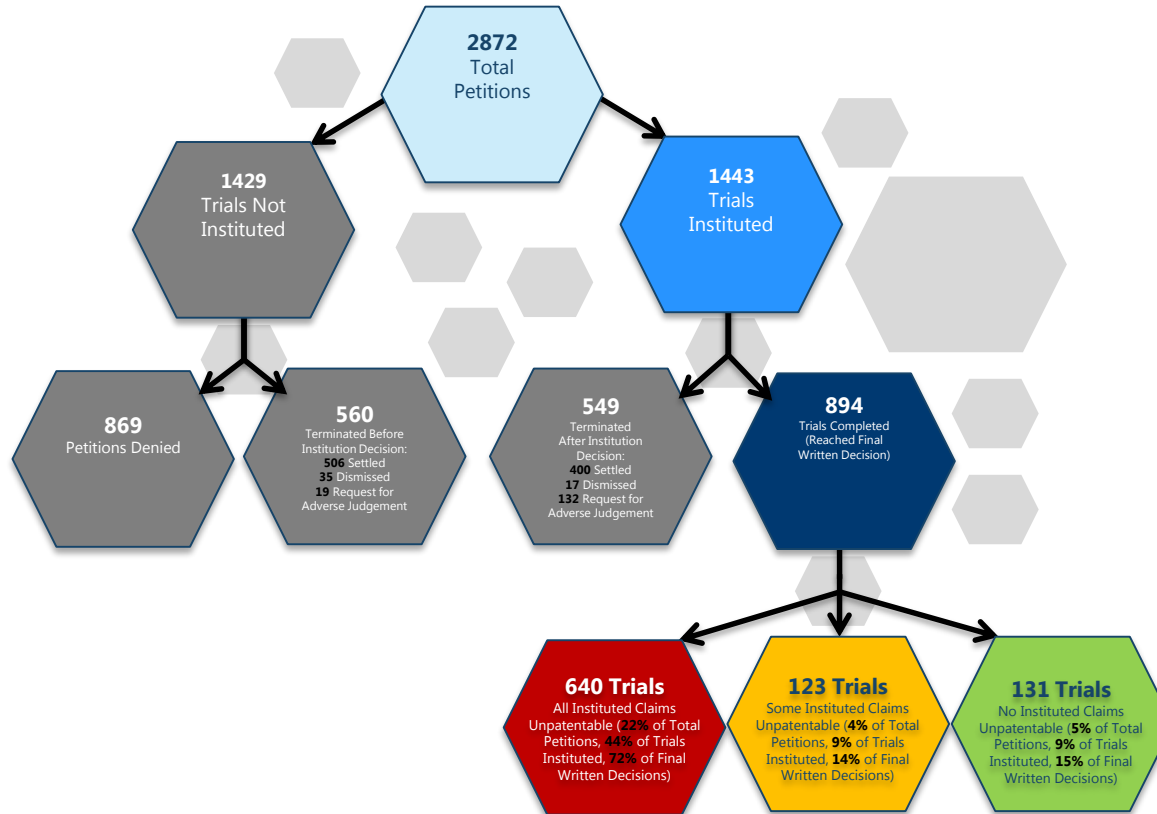
Narrative:

This chart shows claim outcomes for instituted trials, by technology area.

Note: Claims involved in instituted trials that settle or are dismissed are not depicted. Accordingly, a bar may not add up to 100%.

***Data current as of: 3/31/2016**

Disposition of IPR Petitions Completed to Date*

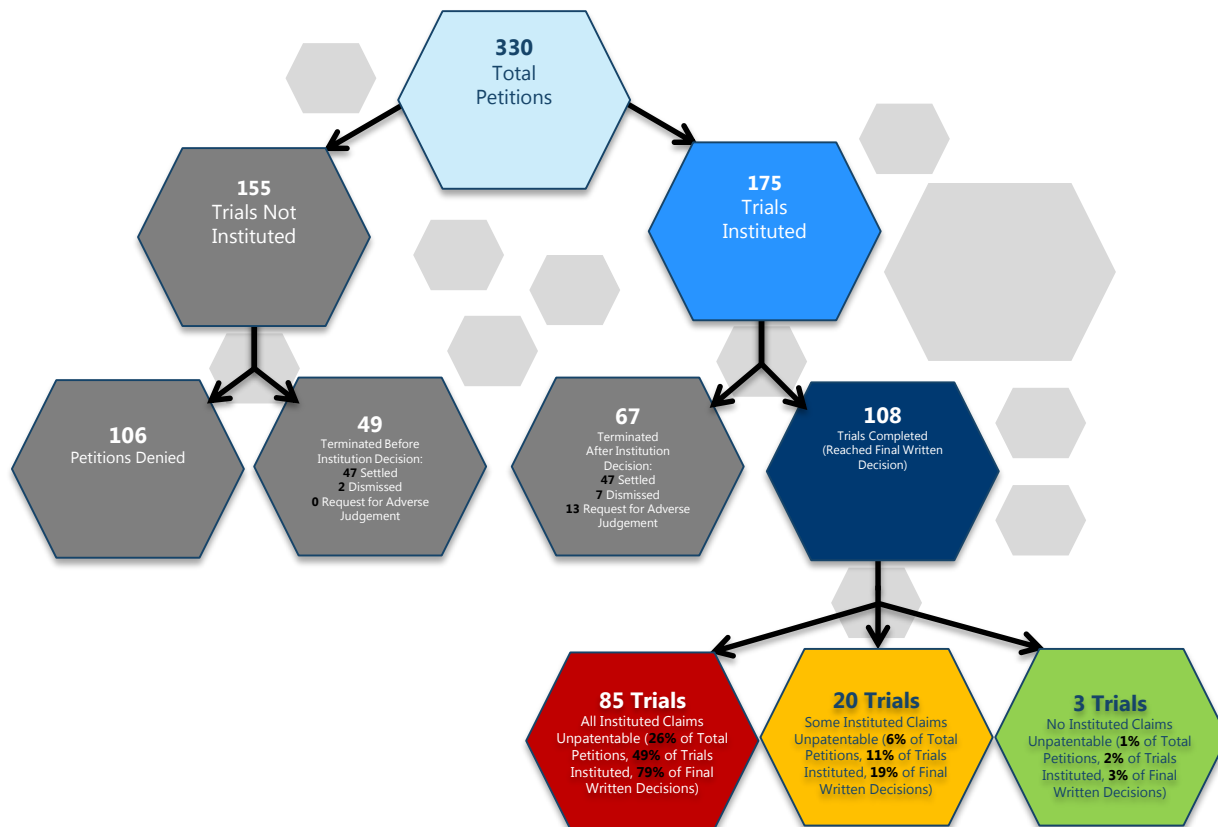


Narrative:

This graph shows a stepping stone visual depicting the outcomes for all IPR petitions filed to-date that have reached a final disposition.

*Data current as of: 3/31/2016

Disposition of CBM Petitions Completed to Date*



Narrative:

This graph shows a stepping stone visual depicting the outcomes for all CBM petitions filed to-date that have reached a final disposition.

*Data current as of: 3/31/2016

AIA Trial Rules Update

AIA Rulemaking

In response to stakeholder requests, the Office moved forward with two rule packages:

1. A first final rule package that encompassed less difficult “quick-fixes” based upon both stakeholder comments and internal PTAB suggestions, including more pages for briefing for motions to amend and for petitioner’s reply brief; and
2. A second proposed rule package published August 20, 2015, and the final rules published April 1, 2016 (<https://www.federalregister.gov/articles/2016/04/01/2016-07381/rules-of-practice-for-trials-before-the-patent-trial-and-appeal-board>).
 - A correction published April 27, 2016, to clarify word count limitation – removes “grounds for standing under §§ 42.104, 42.204, or 42.304” (<https://www.federalregister.gov/articles/2016/04/27/2016-09814/amendments-to-the-rules-of-practice-for-trials-before-the-patent-trial-and-appeal-board-correction>).

New Rules - Summary

- Claim Construction for Expiring Patents
- Patent Owner Preliminary Response
- Oral Hearings
- Word Count
- Rule 11-Type Certification

PTAB Initiatives

Expedited Patent Appeal Pilot (EPAP)

- *Ex parte* appeal accorded special status when another is withdrawn
- Pilot effective June 19, 2015 for up to a year
- Timing Goal - 2 months to decide petition & 4 months from the date of petition grant to decide appeal
- Data through April 25, 2016: 23 petitions filed (20 granted and 3 denied); Average time to decide petition approximately 2 days
- Will run until 2,000 appeals have been accorded special status or until June 20, 2016

Small Entity Pilot Program

- Published 09/16/2015
- Provides opportunity for small entities to secure expedited review
- Small entities with a single pending appeal
- Agree to review based on one claim
- No rejections under §112
- Timing Goal - 2 months to decide petition & 4 months from the date of petition grant to decide appeal
- Data through April 25, 2016: 18 petitions filed (11 granted and 7 denied); Average time to decide petition approximately 10 days
- Will run until 2,000 appeals have been accorded special status or until September 16, 2016

Proposed Single Judge Pilot Program

- The Office received eighteen written submissions from intellectual property organizations, associations, businesses, law firms, patent practitioners, and others.
- The majority of comments opposed the proposed pilot program; however, several comments supported modified pilot programs.
- Taking into account the comments received, the Office has decided not to go forward with the proposed pilot program at this time.

Questions and Comments

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